

REMARKS

This Response is submitted in reply to the Office Action dated October 10, 2007. Claims 1, 2, 13 to 24, 31, and 33 have been amended. Claims 25 to 30 and 41 to 43 are withdrawn without prejudice or disclaimer. No new matter has been added. A Petition for a One Month Extension Of Time and a Supplemental Information Disclosure Statement (IDS) that includes references which Applicant believes may be of particular relevance to the instant claimed invention are submitted herewith. Please charge deposit account number 02-1818 for any fees associated with the Petition, the IDS, and this Response.

The Office Action issued a restriction requirement under 35 U.S.C. § 121, which required Applicants to elect one of the following:

Group I: Claims 1 to 24 and 31 to 40, drawn to a gaming device comprising a plurality of different level selections wherein the selections consist of pay (pay outcome with count against pick counter), advance (move to next level with count against pick counter), repeat (pick from same level with count against pick counter) and pass (move to next level without count against pick counter) outcomes. A player is given a predetermined amount of picks that the player uses throughout each level. The player picks and accumulates respective awards until the player exhausts all of the available picks throughout each subsequent level until the final level.

Group II: Claims 25 to 30 and 41 to 43, drawn to a gaming device comprising a plurality of different level selections wherein the selections consist of pay (pay outcome with count against pick counter), advance (move to next level with count against pick counter), repeat (pick from same level with count against pick counter) and pass (move to next level without count against pick counter) outcomes. A player is given a predetermined amount of picks that the player uses throughout each level. The player picks and accumulates respective awards until the player exhausts all of the available

picks. Furthermore, if a player has available picks the gaming device has a return function that enables a player to pick again from a previous level of a "advance" or "skip" pick.

During a telephone conversation between Applicant's representative and the Examiner on October 1, 2007, a provisional election was made without traverse to prosecute the invention of Group 1, including claims 1 to 24 and 31 to 40. Applicant hereby confirm the election of Group 1 without traverse.

The Office Action objected to claims 13 and 16 to 24 because of certain informalities. Claims 13 and 16 to 24 are amended as suggested by the Office Action to overcome these objections.

The Office Action rejected claims 1, 13 to 15, 17 to 24, and 31 to 40 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,273,415 to Cregan et al. ("Cregan"). Applicant respectfully disagrees and traverses this rejection for at least the following reasons. Additionally, to expedite prosecution, independent claims 1, 15, and 31 have been amended for clarification purposes.

Cregan discloses a gaming device having a bonus round with multiple selection groups. Each selection group contains a plurality of selections that remain masked until chosen (column 5, lines 33-37). The bonus round begins in the bottom selection group and advances upwardly, ending when the player chooses a predetermined number of selections from the last or final selection group (column 2, lines 31-34). Cregan does not disclose providing any indication to the player that one selection is better or more likely to result in a winning symbol than any other selection – rather each selection in a selection group is masked by an identical masking symbol (Figs. 1, 3, 6-8, column 14, lines 40-42).

Amended independent claims 1 and 15 include, among other elements, a plurality of different levels, a clue associated with the level, and a plurality of masked selections, wherein each masked selection is associated with one of a plurality responses to the clue. Amended independent claim 31 includes, among other elements, displaying a clue and displaying a first selection level of a plurality of selection

levels, wherein each selection level includes a plurality of masked selections and wherein each masked selection is associated with one of a plurality of responses to the clue.

Cregan does not disclose a plurality of different levels, a clue associated with the level, and a plurality of masked selections, wherein each masked selection is associated with one of a plurality responses to the clue. Instead, Cregan discloses masking each selection in each selection level with an identical mask (i.e. the word "pick," Figs. 1, 3, 6-8, column 13, lines 40-41) such that a player picks a desired selection without direction from the gaming device. Since amended independent claims 1, 15, and 31 each generally include a plurality of selection levels wherein each selection level includes a clue, and a plurality of selections in each level wherein each selection is masked by one of a plurality of responses to the clue, Cregan does not disclose each and every element of independent claims 1, 15, or 31. For at least this reason, independent claims 1, 15, and 31 are not anticipated by Cregan and are in condition for allowance.

Dependent claims 3 to 14, 17 to 24, and 32 to 40, which depend directly or indirectly on independent claims 1, 15, or 31, are allowable for the reasons given above with respect to independent claims 1, 15, and 31, and because of the additional features recited in these claims.

Applicant therefore respectfully submits that claims 1, 3 to 15, 17 to 24, and 31 to 40 are not anticipated by Cregan, and are in condition for allowance.

The Office Action also rejected dependent claims 2 and 16 under 35 U.S.C. §103(a) as being unpatentable over Cregan in view of U.S. Published Application No. 2003/0045349 to Hughs-Baird (Hughs-Baird).

As noted, Cregan discloses a bonus game having multiple selection groups, wherein each selection in a selection group is masked by an identical masking symbol. The Office Action states that Hughs-Baird discloses a "pick again" pick, which enables a player to make an additional pick without a count against the pick counter (§58). However, Hughs-Baird discloses a game having a single set of selections (Figs. 4A-4C,

5A-5D, 6A, 6B, 7, 8, ¶36). The gaming device masks each selection in the single set of selections with an identical masking indicia (i.e. angled hatching, see Figs. 4A-4C, 5A-5D, 6A, 6B, 7, 8). The game then provides a number of picks (¶37), and requires the player to make a selection without any indication which selection is the best selection (¶39). The player continues to make selections from the same set of selections until the picks remaining counter is reduced to zero (¶42). The purpose of the game is to provide the player with an opportunity to win a large award or jackpot by selecting all the award symbols that make up a predetermined winning combination (¶62).

Dependent claims 2 and 16, which depend directly on independent claims 1 and 15, include, among other elements, a plurality of different levels, a clue associated with the level, and a plurality of masked selections, wherein each masked selection is associated with one of a plurality responses to the clue..

The Office Action does not appear to take into account that both Cregan and Hughs-Baird teach away from the modification relied on by the Office Action. As discussed above, Cregan discloses a game wherein the goal is to accumulate as many picks as possible from a final selection group. This is accomplished by advancing through the selection levels as slowly as possible. For example, if a player selects the advance indicator from each selection level with the player's first pick from the selection level, a minimum number of picks from the final selection level will be awarded. A person of ordinary skill in the art would recognize that the gaming device of Cregan would not include selection levels including a clue and selections masked by responses to the clue, as such an arrangement suggests to the player which selection is the most desirable. Rather, a person of ordinary skill in the art would recognize that Cregan requires that the selections be masked by identical masking indicia such that the player is equally inclined to select any of the selections in a given selection group. Cregan thus appears to teach away from a plurality of different levels, a clue associated with the level, and a plurality of masked selections, wherein each masked selection is associated with one of a plurality responses to the clue. Claims 2 and 16 are not obvious in light of Cregan alone because Cregan appears to teach away from such a modification.

Hughs-Baird also appears to teach away from the modification relied on by the Office Action. One of skill in the art would recognize that Hughs-Baird discloses a game in which the goal is to reveal a certain combination of symbols from a single selection level. Thus, it is not an object of Hughs-Baird for a player to find any single, best selection in a selection level. On the other hand, providing a plurality of different levels, a clue associated with the level, and a plurality of masked selections, wherein each masked selection is associated with one of a plurality responses to the clue indicates to the player an apparently "best" response to the clue and therefore and apparently "best" selection. Because the gaming device of Hughs-Baird relies on the equality of each selection in the selection level, Hughs-Baird appears to teach away from providing a clue masking selections in a selection group with responses to the clue.

Moreover, there is no motivation to combine Cregan with Hughs-Baird as suggested by the Office Action. Cregan discloses a bonus game with multiple selection levels, wherein the goal is to progress through the selection levels to reach the final selection level. Each selection from the final selection level results in awards or multipliers. Thus, the purpose of the bonus game disclosed in Cregan is to maximize the number of picks available from the final selection level. On the other hand, Hughs-Baird discloses a game having a single selection level, wherein a player makes all the selections indicated by a pick counter in the hopes of selecting a winning combination. The purpose of Hughs-Baird is to select each of the required symbols in a winning symbol combination. Therefore, one of ordinary skill in the art would not combine Cregan with Hughs-Baird as suggested by the Office Action to result in the gaming device of claims 2 and 16.

Regardless of whether it would have been obvious to incorporate the teachings of Cregan into Hughs-Baird, neither Cregan or Hughs-Baird individually, nor the gaming device resulting from the combination of Cregan and Hughs-Baird, discloses a gaming device including, among other elements, a plurality of different levels, a clue associated with the level, and a plurality of masked selections, wherein each masked selection is associated with one of a plurality responses to the clue. Moreover, it would not have been obvious to one of skill in the art to modify Hughs-Baird in view of Cregan to result

in such a gaming device without reasonably being construed as improper hindsight reconstruction.

For these reasons and the reasons given above with respect to independent claims 1 and 15, and because of the additional features recited in claims 2 and 16, claims 2 and 16 are patentably distinguishable over Cregan in view of Hughes-Baird, and therefore are in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art such action is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY



Adam H. Masia
Reg. No. 35,602
Customer No. 29159

Dated: February 11, 2008